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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,345

02/19/2004

Behram Dacosta

50T5722.02

5398

36738

7590

12/08/2009

ROGITZ & ASSOCIATES  
750 B STREET  
SUITE 3120  
SAN DIEGO, CA 92101

EXAMINER

HOSSAIN, TANIM M

ART UNIT

PAPER NUMBER

2445

MAIL DATE

DELIVERY MODE

12/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/782,345	<b>Applicant(s)</b> DACOSTA, BEHRAM	
	<b>Examiner</b> Tanim Hossain	<b>Art Unit</b> 2445	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-13 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-13 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

In view of the Appeal Brief filed on September 2, 2009, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

\*/R. D. D./

Supervisory Patent Examiner, Art Unit 2400\*\*.

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-13 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sayers (U.S. 2005/0083882) in view of Official Notice.

As per claim 10, Sayers teaches a home entertainment system, comprising: at least one wireless system server having at least a primary communication system (0020-0023, 0026-0028); and at least one wireless component having at least a primary communication system configured for communicating with the primary communication system of the server, wherein the component sends configuration information to the server using a secondary communication system that is out-of-band with the primary systems, wherein the configuration information is exchanged between the server and component only when the distance between them is within a communication distance (0020-0023, 0026-0028, 0034-0040). Sayers does not specifically teach that the user must manipulate at least one button on at least the server or the component for the communication to take place, as claimed. Sayers teaches that the base station and the configuration transmitter may be placed behind a guard desk, or also in a home, as examples (0029, 0031). In such cases, it is well known in the art for the user to press a button to effectuate the communication between the server and the wireless component. This can constitute pressing "OK" on the GUI of one of the devices, for example. Without such a mechanism, any user within range of the base station could receive the secondary communication, thus defeating the purpose of the security measures of the invention. Therefore, the pressing of a button on one of the server or component to establish secondary communication would have been known by one of ordinary skill to at least achieve this security purpose. The pressing of a button to effectuate

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communication is eminently well known in the art, and an example is shown in Jo (U.S. 2002/0087351), paragraph 0046. Therefore, such a pressing of a button does not constitute a patentable distinction.

As per claim 11, Sayers teaches the system of claim 1, wherein the secondary communication systems are personal area networks (0020-0023, 0026-0028).

As per claim 12, Sayers teaches the system of claim 1, wherein the primary communication system is an 802.11 system (0020-0023, 0026-0028).

As per claim 13, Sayers teaches the system of claim 12, but does not specifically teach that the server is a set-top box receiver. Sayers teaches that the server may be a computer or a base station, for example. As such, Official Notice is taken that it would have been obvious to one of ordinary skill to employ the server as a set-top box receiver. The use of such receivers is common in the art of communication services, and constitutes a design choice rather than a patentable distinction.

As per claim 30, Sayers teaches the system of claim 1, wherein the configuration information includes an encryption key, a media access address, and a network name (0020-0023).

### ***Response to Arguments***

Applicant's arguments filed on September 2, 2009 have fully been considered.

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a. A new ground of rejection has been issued with respect to the fact that Sayers does not explicitly disclose the pressing of a button on either the component or the server to effectuate communication.

b. With respect to IR communications between the component and the server, a range of communication distance is inherent. It is a known fact that IR communications may only take place over a limited range. Further, paragraphs 0023 and 0024, corresponding to Figure 2, disclose that the “second area,” through which the secondary communication takes place, has a limited range. As such, Sayers fully teaches this limitation.

c. Sayers, in paragraphs 0002, 0017, 0029, and 0032 disclose that the invention may be employed in a home setting. As such, this obviously constitutes that the Sayers invention may be embodied as a home entertainment system, as claimed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tanim Hossain whose telephone number is (571)272-3881. The examiner can normally be reached on 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571/272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tanim Hossain  
Patent Examiner  
Art Unit 2445

/Rupal D. Dharia/  
Supervisory Patent Examiner, Art Unit  
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